

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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Chapter 55, Revised Statutes

(1.) SEC. I. When any person shall die, possessed of any personal estate, or of any right or interest therein, not lawfully disposed of by his last will, the same shall be applied and distributed as follows :

Application and distribution of personal estate.

1. The widow, if any, shall be allowed all her articles of apparel and ornament, and all the wearing apparel and ornaments of the deceased, the household furniture of the deceased, not exceeding in value two hundred and fifty dollars, and other personal property to be selected by her, not exceeding in value two hundred dollars ; and this allowance shall be made as well when the widow receives the provision made for her in the will of her husband, as when he dies intestate :

2. The widow and children constituting the family of the deceased, shall have such reasonable allowance out of the personal estate, as the probate court shall judge necessary for their maintenance during the progress of the settlement of the estate, according to their circumstances ; which, in case of an insolvent estate, shall not be longer than one year after granting administration, nor for any time after the dower and personal estate shall be assigned to the widow :

3. When a person shall die, leaving children under seven years of age, having no mother, or when the mother shall die before the children shall arrive at the age of seven years, an allowance shall be made for the necessary maintenance of such children, until they arrive at the age of seven years, out of such part of the personal estate, and the income of such part of the real estate as would have been assigned to their mother, if she had been living :

4. If, on the return of the inventory of any intestate estate, it shall appear that the value of the whole estate does not exceed the sum of one hundred and fifty dollars, the probate court may, by a decree for that purpose, assign for the use and support of the widow and children of such intestate, or for the support of the children under seven years of age, if there be no widow, the whole of such estate, after the payment of the funeral charges, and expenses of administration :

5. If the personal estate shall amount to more than one hundred and fifty dollars, and more than the allowances mentioned in the preceding

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sub-divisions of this section, the same shall be applied to the payment of the debts of the deceased, with the charges of his funeral, and of settling his estate :

6. The residue, if any, of the personal estate, shall be distributed in the same proportion, and to the same persons, and for the same purposes as prescribed for the descent and disposition of the real estate, except that the widow, if any, shall be entitled to receive the same share of such residue, as a child of such intestate would be entitled to.

What probate court to have jurisdiction.

(2.) SEC. II. When any person shall die intestate, being an inhabitant of this territory, letters of administration of his estate shall be granted by the probate court of the county of which he was an inhabitant or resident, at the time of his death. If such deceased person, at the time of death, resides in any other territory, state or county, leaving estate to be administered in this territory, administration thereof shall be granted by the probate court of any county in which there shall be estate to be administered ; and the administration first legally granted, shall extend to all the estate of the deceased in this territory, and shall exclude the jurisdiction of the probate court of every other county.

Who entitled to letters of administration.

(3.) SEC. III. Administration of the estate of a person dying intestate, shall be granted to some one or more of the persons hereinafter mentioned, and they shall be respectively entitled to the same in the following order :

1. The widow, or next of kin, or both, as the judge of probate may think proper, or such person as the widow or next of kin may request to have appointed, if suitable and competent to discharge the trust :

2. If the widow, or next of kin, or the person selected by them shall be unsuitable or incompetent, or if the widow or next of kin, shall neglect, for thirty days after the death of the intestate, to apply for administration, or to request that administration be granted to some other person, the same may be granted to one or more of the principal creditors, if any such are competent and willing to take it :

3. If there be no such creditor competent and willing to take administration, the same may be committed to such other person or persons as the judge of probate may think proper.

Bond to be given by administrator.

(4.) SEC. IV. Every administrator, before he enters upon the execution of his trust, and before letters of administration shall be granted to him, shall give a bond to the judge of probate, with such surety or sureties as he shall direct and approve, with the same conditions as required in case of an executor, with such variations only as may be necessary to make it applicable to the case of an administrator.

When special administrator may be appointed.

(5.) SEC. V. When there shall be a delay in granting letters testamentary or of administration, occasioned by an appeal from the allowance or disallowance of a will, or from any other cause, the judge of probate may appoint an administrator to act in collecting and taking charge of the estate of the deceased, until the question on the allowance of the will, or such other question as shall occasion the delay, shall be terminated, and an executor or administrator be thereupon appointed ; and no appeal shall be allowed from the appointment of such special administrator.

Duties of special administrator.

(6.) SEC. VI. An administrator, appointed according to the provisions of the preceding section, shall collect all the goods, chattels, and debts of the deceased, and preserve the same for the executor or administrator who may afterwards be appointed, and for that purpose may commence and maintain suits as an administrator, and may sell such perishable and other personal estate as the probate court may order to be sold.

Not to pay debts, &c.

(7.) SEC. VII. Such special administrator shall not be liable to an

action by any creditor, or to be called upon in any other way to pay the debts against the deceased.

(8.) SEC. VIII. Every such special administrator shall, before entering upon the duties of his trust, give a bond to the judge of probate as he shall direct, with a condition that he will make and return a true inventory of all the goods, chattels, rights, credits and effects of the deceased, which shall come to his possession or knowledge; and that he will truly account for all the goods, chattels, debts and effects of the deceased, which shall be received by him whenever required by the probate court, and will deliver the same to the person who shall afterwards be appointed executor or administrator of the deceased, or to such other person as shall be legally authorized to receive the same.

Bond to be given by special administrator.

(9.) SEC. IX. Upon granting letters testamentary or of administration on the estate of the deceased, the power of such special administrator shall cease, and he shall forthwith deliver to the executor or administrator, all the goods, chattels, money and effects of the deceased in his hands; and the executor or administrator may be admitted to prosecute to final judgment any suit commenced by such special administrator.

When his powers to cease, &c.

(10.) SEC. X. If any person, before the granting of letters testamentary or of administration, shall embezzle or alienate any of the moneys, goods, chattels or effects of any deceased person, such person shall stand chargeable and be liable to the action of the executor or administrator of such estate for double the value of the property so embezzled or alienated, to be recovered for the benefit of such estate.

Liability of person embezzling or alienating goods, &c., before letters granted.

(11.) SEC. XI. When any sole executor or administrator shall die without having fully administered the estate, the probate court may grant letters of administration, with the will annexed, or otherwise, as the case may require, to some suitable person to administer the goods and estate of the deceased, not already administered.

Administration with the will annexed, to be granted on death of sole executor.

(12.) SEC. XII. If an administrator shall reside out of this territory, or shall neglect after due notice by the judge of probate to render his account, and to settle the estate according to law, or to perform any decree of such court, or shall abscond or become insane, or otherwise unsuitable or incapable to discharge the trust, the probate court may, by an order therefor, remove such administrator.

When administrator to be removed.

(13.) SEC. XIII. When an unmarried woman who is administratrix, alone or jointly with another person, shall marry, her marriage shall extinguish her authority as administratrix.

Marriage of administratrix extinguishes her authority.

(14.) SEC. XIV. When an administrator shall be removed, or his authority shall be extinguished, the remaining administrator, if any, may execute the trust; if there shall be no other, the court of probate may commit administration of the estate, not already administered, to some suitable person, as in the case of the death of a sole administrator.

When remaining administrator to execute trust.

(15.) SEC. XV. An administrator appointed in the place of any former executor or administrator for the purpose of administering the estate not already administered, shall have the same powers and shall proceed in settling the estate, in the same manner as the former executor or administrator should have had or done; and may prosecute or defend any action commenced by or against the former executor or administrator, and may have execution on any judgment recovered in the name of such former executor or administrator.

Powers, &c., of administrator do bonis non.

(16.) SEC. XVI. If after the granting of letters of administration by any probate court, on the estate of any deceased person, as if he had died intestate, a will of such deceased person shall be duly proved and allowed by such court, the first administration shall, by decree of said court, be revoked, and the powers of the administrator shall cease, and he shall

Administration granted, to be revoked on proving will.

thereupon surrender his letters of administration into the probate court, and render an account of his administration, within such time as the court shall direct.

Powers of executor in such case.

(17.) SEC. XVII. The executor of the will shall, in such case, be entitled to demand, sue for and collect all the goods, chattels, rights and credits of the deceased, remaining unadministered, and may be admitted to prosecute to final judgment any suit commenced by the administrator before the revocation of his letters of administration.

Acts of executor, &c., before revocation, valid.

(18.) SEC. XVIII. All acts of an executor or administrator, as such, before the revocation of his letters testamentary or of administration, shall be as valid to all intents and purposes as if such executor or administrator had continued lawfully to execute the duties of his trust.

Administrators may give joint or separate bonds.

(19.) SEC. XIX. When two or more persons shall be appointed administrators on any estate, the judge of probate may take a separate bond from each, with sureties, or a joint bond with sureties from all.

Notice of application for appointment of administrator, &c., to be given.

(20.) SEC. XX. When application shall be made to the judge of probate for the appointment of an administrator of an intestate estate, or for letters of administration with the will annexed, he shall cause notice of the same, and of the time and place of hearing thereof, to be published for three successive weeks in such newspaper as he may direct.

CHAPTER 43.

INVENTORY AND COLLECTION OF THE EFFECTS OF DECEASED PERSONS.

Chapter 56, Revised Statutes

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Making and return of inventory.

(1.) SEC. I. Every executor or administrator shall, within three months after his appointment, make and return into the probate court a true inventory of the real estate, and of all the goods, chattels, rights and credits of the deceased, which shall have come to his possession or knowledge; excepting, only, that an executor who shall be a residuary legatee, and shall have given bond to pay all the debts and legacies, as provided by the law, shall not be required to return an inventory.